

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MAX BIRMINGHAM,

Plaintiff,

Case No: 1:20-cv-00329

v.

DANA NESSEL,

Defendant.

**Notice of Motion for
Default Judgment
Against Dana Nessel, Defendant**

PLAINTIFF'S NOTICE OF MOTION FOR DEFAULT JUDGMENT

PLEASE TAKE NOTICE that on or after June 9, 2020, *Pro Se* Plaintiff Max Birmingham, pursuant to Federal Rule of Civil Procedure 55(b)(2), will respectfully move the Court for entry of an Order against Defendant Dana Nessel as follows:

1. Issue a declaratory judgment that MICH. COMP. LAWS 750.532 ("Seduction statute") is facially unconstitutional, and invalidate the statute.
2. Preliminary and permanent injunctions enjoining the enforcing, investigating, questioning, arresting, charging, or any other use of MICH. COMP. LAWS 750.532 ("Seduction statute") against any person or persons.
3. Grant any and all other such relief that this Court deems just and equitable.

PLEASE TAKE FURTHER NOTICE that Plaintiff will rely on the accompanying Declaration of Plaintiff, the original Complaint, First Amended Complaint, Plaintiff's Motion for Preliminary Injunction, Plaintiff's Memorandum in Support of the Motion for Preliminary Injunction, Plaintiff's Application for Entry of Default, Entry of Default by the Clerk, Plaintiff's Motion for Default Judgment, Plaintiff's Memorandum in Support of the Motion for Default Judgment, and all other pertinent and relevant materials, documents, case filings, laws, statutes,

rules, and regulations. A proposed form of Order is submitted herewith.

Respectfully submitted,

/s/ Max Birmingham
Max Birmingham (D.C. Bar # 1618157)
PRO SE
323 E 108th St.
Apt. 24
New York, NY 10029
(617) 756-5473
maxbirmingham@gmail.com

Dated: June 2, 2020

DECLARARTION OF PLAINTIFF

I, Max Birmingham, declare as follows:

1. I am the Plaintiff in this action. If called as a witness, I could and would competently testify thereto.

2. Defendant Dana Nessel was served pursuant to Rule 4 of the Federal Rules of Civil Procedure on May 13, 2020, as evidenced by the proof of service on file with this Court.

3. Under Rule 12, Defendant Dana Nessel was required to plead or otherwise respond to the complaint by June 1, 2020. The time to plead or otherwise respond to the complaint has not been extended by any agreement of the parties or any order of the Court.

4. Defendant Dana Nessel has failed to serve or file a pleading or otherwise respond to the complaint. The applicable time limit for responding to the complaint has expired.

5. Defendant Dana Nessel is not a minor or an incompetent person.

6. Defendant Dana Nessel is not currently in the military service, and therefore the Servicemembers Civil Relief Act does not apply.

I have attached to this declaration a true and correct copy of the proofs of service on file with this Court for the above-named Defendants. I declare under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false I am subject to punishment.

Respectfully submitted,

/s/ Max Birmingham
Max Birmingham (D.C. Bar # 1618157)
PRO SE
323 E 108th St.
Apt. 24
New York, NY 10029
(617) 756-5473
maxbirmingham@gmail.com

Dated: June 2, 2020

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MAX BIRMINGHAM,

Plaintiff,

Case No: 1:20-cv-00329

v.

DANA NESSEL,

**ORDER GRANTING DEFAULT
JUDGMENT**

Defendant.

This matter having been opened to the Court by *Pro Se* Plaintiff Max Birmingham, for an order striking the Answer of Dana Nessel as untimely and unresponsive and granting default judgment to Plaintiff against Defendant Dana Nessel, on the amended Complaint filed May 13, 2020; and in consideration of Plaintiff's request for a default judgment; the declaration of Max Birmingham; the Memorandum in Support of Entry of Default Judgment; and for good cause shown:

IT IS, on this ____ day of _____, 2020, pursuant to Federal Rule of Civil Procedure 55(b)(2),

ORDERED that Plaintiff's motion to strike Defendant Dana Nessel's Answer as untimely and unresponsive is GRANTED.

ORDERED that Plaintiff's motion for default judgment against Defendant Dana Nessel is GRANTED.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on June 2, 2020, via the CM / ECF system, and that the foregoing has been served via U.S. mail on Defendant.

Respectfully submitted,

/s/ Max Birmingham
Max Birmingham (D.C. Bar # 1618157)
PRO SE
323 E 108th St.
Apt. 24
New York, NY 10029
(617) 756-5473
maxbirmingham@gmail.com

Dated: June 2, 2020

PROOF OF SERVICE BY MAIL

On June 2, 2020, I served the documents described as

- 1: Application for Entry of Default
- 2: Declaration of Plaintiff

on the interested party in the action by placing a true and correct copy thereof in a sealed envelope, with postage paid thereon for Priority Mail Express from the United States Postal Service, and deposited said envelope in the United States mail at or in New York, New York, addressed to:

Dana Nessel
G. Mennen Williams Building
525 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909

I declare under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false I am subject to punishment.

Respectfully submitted,

/s/ Max Birmingham
Max Birmingham (D.C. Bar # 1618157)
PRO SE
323 E 108th St.
Apt. 24
New York, NY 10029
(617) 756-5473
maxbirmingham@gmail.com

Dated: June 2, 2020



EJ 350 816 320 US

Money-back Guarantee: If the mailer submits an item at a designated USPS® Priority Mail Express® acceptance location on or before the specified deposit time, the Postal Service will deliver or attempt delivery to the addressee on or before the applicable delivery date and time. No later than one hour after delivery, the addressee's signature from the addressee upon delivery of the item by checking the "signature required" box at the time of mailing. If the Postal Service does not deliver or attempt delivery by the specified time and the mailer files a valid claim for a refund, the Postal Service will refund the postage, unless an exception applies. See *Mailing Standards of the United States Postal Service, Domestic Mail Manual* (DMM®) 604.9.5.5 which is available at pe.usps.com.

Note: The Postal Service does not offer money-back guarantee for military or DPO shipments delayed due to customs inspections or the item was destined for an APO/FPO/DPO that was closed on the intended day of delivery or the delay was caused by one of the situations in DMM 604.9.5.5. Consult USPS.com® or your local Post Office for information on delivery commitments and Priority Mail Express Military Service (PMEMS). For details, see DMM 703.2.6, which is available at pe.usps.com.

When a mailer submits a Priority Mail Express item requiring a signature and the Postal Service cannot deliver the item on the first attempt, the Postal Service leaves a notice for the addressee. If the addressee does not claim the item within 5 calendar days, the Postal Service returns the item to the sender at no additional charge.

Insurance coverage: The Postal Service provides insurance only in accordance with postal regulations in the DMM, which is available at pe.usps.com. The DMM sets forth the specific types of losses that are covered, the limitations on coverage, terms of insurance, conditions of payment, and adjudication procedures. Certain items are not insurable. The DMM consists of federal regulations, and USPS personnel are not authorized to change or waive these regulations or grant exceptions. A mailer who requires information on Priority Mail Express insurance may contact the Postal Service before submitting an item. Limitations prescribed in the DMM provide, in part, that:

1. Insurance coverage extends to the actual value of the contents at the time of mailing or the cost of repairs, not to exceed the insured limit for the item.
2. The Postal Service insures the contents of Priority Mail Express "merchandise" items (with "merchandise" defined by postal regulations) against loss, damage, or missing contents. The Postal Service includes coverage up to \$100 per mailpiece at no additional charge. Additional merchandise insurance up to \$5,000 per mailpiece may be available for purchase. Additional insurance for Priority Mail Express items is not available unless a signature is required.

Case 1:20-cv-00329-JTM-PJC Document 16 filed 06/02/20 PageID.140 Page 8 of 8



3. The Postal Service insures "nonnegotiable documents" (as defined by postal indemnity regulations) against loss, damage, or missing contents up to \$100 per mailpiece for document reconstruction, subject to additional limitations for multiple pieces lost or damaged in a single catastrophic occurrence. Document reconstruction insurance provides reimbursement for the reasonable costs incurred in reconstructing duplicates of nonnegotiable documents mailed. Document reconstruction insurance coverage above \$100 per mailpiece is not available. The mailer should not attempt to purchase additional document insurance, because additional document insurance is void.

4. The Postal Service insures "negotiable items" (defined by postal regulations as items that can be converted to cash without forgery), currency, or bullion up to a maximum of \$15 per mailpiece.
5. The Postal Service does not provide coverage for consequential losses due to loss, damage, or delay of Priority Mail Express items or for concealed damage, spoilage of perishable items, and articles improperly packaged or too fragile to withstand normal handling in the mail.

Coverage, terms, and limitations are subject to change. For additional limitations and terms of coverage, consult the DMM, which is available at pe.usps.com.

Indemnity Claims (Loss, Damaged or Missing Contents): Either the mailer or the addressee may file an indemnity claim for loss, damaged or missing contents. The claimant may submit the claim online at usps.com, or by mail; for more information see Publication 122, *Domestic Claims, Customer Reference Guide*. The timelines for claims are as follows: claims for loss – no sooner than 7 days but no later than 60 days after the date of mailing; claims for damage or missing contents – immediately but no later than 60 days from the date of mailing. Retain the original USPS retail receipt or eReceipt/electronic receipt for claims purposes. For claims involving damage or missing contents, also retain the article, container, and packaging for Postal Service inspection when requested.

Refund of Postage and Fees (Service Performance): If delivery of a Priority Mail Express (PME) item does not meet the scheduled delivery commitment(s), online and commercial customers may submit a refund request by visiting USPS.com. Retail customers may submit a refund request either online at USPS.com or at retail locations. Refund requests for postage must be submitted no later than 30 days from the date of mailing; Extra Services fees refund requests must be submitted no later than 60 days from the date of mailing. Each tracking number can only be submitted once for all applicable refunds. Refund requests for PME or PME with Extra Services must be combined into a single submission.

Thank you for choosing Priority Mail Express service.

Tracking: For USPS Tracking, scan the QR Code below or go to USPS.com or call 800-222-1811



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